



# **“Back To School” Training: What Your School Should Focus On After This Offseason**

Insights

6.03.19

Spring training is a time-honored tradition for Major League Baseball. The league has long used springtime to fine tune the skills of returning players, while teaching new players about what the team expects of them. Independent and private schools could benefit from a similar approach – offering “back to school” training for their employees at the end of the typical summer offseason during that window of time when educators prepare for the new school year and right before the students return.

A bit of focused and strategic legal training for long-tenured employees would refresh their memories at a time when they are not being overloaded with back-to-school chaos once classes are back in full swing. It would also provide newer employees with an opportunity to integrate into your team while having their practical questions answered in a low-stress environment. A deliberate, thoughtful approach to such training would ensure that all faculty and staff have appropriate training on legal issues they might encounter. A few topics on which we recommend summer training are:

## **Child Abuse Prevention, Recognition, And Reporting**

This is one of the most important legal topics on which independent and private schools need to make a concentrated effort to train their employees. Keeping children safe is fundamental to the school environment, as well as protecting the school and its employees. Training needs to include, among other things, appropriate adult-student boundaries, how to handle an outcry from a child, recognizing signs of abuse and neglect, and reporting obligations and logistics.

This training should include ALL employees. No matter the employee’s role at the school, they are in close proximity to children on a daily basis and thus need to understand their responsibilities when it comes to child safety. Some accrediting bodies are now requiring schools regularly train employees on child abuse prevention, recognition, and reporting. We recommend annual training with periodic deep dives into related topics such as appropriate adult-student boundaries and child abuse recognition.

## **“If You See Something, Say Something”**

These signs are plastered all over airports and subways, but when was the last time you saw one at a school? Those in the field, working day-in and day-out with America’s children are rarely

encouraged to speak up when they see something amiss with a student. A critical component of every school's safety protocol should be to train employees to identify questionable changes in a student's demeanor, concerning conduct, and uncharacteristic lapses in performance. The employees should also be trained that once identified, such issues should be immediately reported to the appropriate members of the school's administration and security team.

### **Calls From Lawyers**

Well-meaning (and sometimes not-so-well-meaning) lawyers often bypass the Head of School or other senior administrators to try to gain useful information from employees. For example, not so long ago there was a group of lawyers reaching out to Athletic Directors to discuss a certain category of potential product liability litigation. A few unsuspecting Athletic Directors spoke with those lawyers sharing information about their school's product purchases, maintenance practices, and injuries to students (or lack thereof). This was all done without the knowledge of – much less permission from – the Heads of School. This kind of direct contact with employees is also quite common from family lawyers embroiled in child custody cases.

In particular, teachers, coaches, counselors, and school nurses need to know that they are not required to speak to lawyers voluntarily and that the school might even have a policy against doing so. The employees also need guidance on to whom they should reach out when they receive this kind of contact from a lawyer and to be reassured that the school is there to help them when requests such as these arise.

### **Handling Subpoenas**

Perhaps your school has lived through the hassle of having multiple employees subpoenaed for the same lawsuit or the horror of having an employee testify about school-related matters without the employee's superior or the administration knowing. Employees need to be educated that they must reach out to their supervisor or the Head of School the moment they receive a subpoena related to school. Doing so can assist the school in determining whether the subpoena is legally valid, whether it is unreasonable, and how many employees have been subpoenaed.

In many instances, legal maneuvers (such as a motion to quash a subpoena or a motion for a protective order from the subpoena) must be exercised quickly if they are to succeed. Certain states allow witnesses, especially in criminal or family court proceedings, to be subpoenaed to appear in court in two days or less. These short timelines do not allow much room for error.

### **The #MeToo Movement**

In this era of heightened focus on workplace behavior, sexual harassment and appropriate workplace decorum, training is not a "one-and-done" proposition. All employees – not just teachers, but maintenance staff, kitchen staff, business office employees, advancement teams, college counseling offices, etc. – need regular training.

Times change, practices change, policies change, people change, and with them, a school's training must change. If you are showing a sexual harassment training video at which your new faculty giggle because of the dated attire and behavior of the actors, it is time to revamp your

...likely giggle because of the dated attire and behavior of the actor, it is time to retrain your

training materials. If you have 20-year employees who were last trained on sexual harassment when they were hired, it is time to change your training protocol. Incorporating topics such as how social medial and electronic communications can be avenues for sexual harassment, and that sexual harassment can occur between individuals of the same gender or opposite genders regardless of sexual orientation, are among the many topics that need to be covered. Such training is key to ensuring a safe, happy and legal working environment for all.

### **Media In Times Of Crisis**

We have all seen the headlines: A teacher has a sexual affair with her student. A student dies in a tragic accident. A trustee is ensnared in a prostitution sting. The media finds matters involving independent and private schools to be quite juicy and titillating.

In today's world of journalism, media reporters are sometimes at the school gates trying to get a comment but are just as often trolling social media, reaching out to anyone who identifies a connection with the school. For better or worse, employees share so much of their personal lives on social media that sometimes they do not realize they should not be responding to a tweet or DM (direct message) about something going on at school. Employees are often caught off guard or swept up in the chaos of the moment. They need to be prepared to respond in those turbulent situations and the best time to equip them is when things are calm and quite.

### **Conclusion**

Many, if not most, independent and private schools have lawyers they can contact to help address the myriad of legal issues facing schools today. The lawyers work on a regular – or perhaps semi – regular basis – with the Head of School, board of trustees, senior administrators, business officers, and human resources directors. From these interactions, both lawyers and school leadership are trained in how the law and private school education intersect. The irony is how infrequently those people in the field (the teachers, counselors, coaches, and staff) have the opportunity for such informal and formal legal training. “Summer” training is the perfect time to be sure your school's most valuable commodity – its people – have the legal training they need.

*For more information, contact the author at [KLSmith@fisherphillips.com](mailto:KLSmith@fisherphillips.com) or 713.292.5621.*

### ***Related People***





**Kristin L. Smith**

Partner

713.292.5621

Email

***Service Focus***

Counseling and Advice

***Industry Focus***

Education

Higher Education